

Action Item Summary

EPA Technical Meeting #4

January 12, 2015 : 10:00 am - 12:00 pm

DWR – Bonderson Bldg | 901 P Street, Room 422, Sacramento CA 95814

I. Introductions:

Attendees: Cassandra Enos (DWR), Ken Bogdan (DWR) Tim Vendlinski (EPA), Stephanie Skophammer (EPA), Erin Foresman (EPA), Steve Centerwall (ICF), David Zippin (ICF), Marc Ebbin (EMS), Larry Rabin (USFWS), Cathy Marcinkevage (NMFS), Dan Hytrek (NMFS), Peg Romanik (DOI), Kaylee Allen (DOI)

II. Topics for Discussion:

A. Presentation on Regional HCP ESA and NEPA requirements (Attached)

- Regional HCP's – how they work
- Examples of Approved HCPs
- CEQA/NEPA Compliance level of detail needs
- ESA level of detail needs
- BDCP Mitigation Approach

B. Discussion of EPA comments:

Topic 1: EPA is concerned that the relationship between the CM2 analysis and the current Reclamation planning efforts in Yolo Bypass are not clearly enough defined, including additional project-level analysis, relationship to BiOp, and if additional water would be needed to flood the bypass. Are impacts of CM2 are designed to offset impacts from CM1.

Discussion Items:

- EPA concerned that there is less specificity in the BDCP than in the existing BiOp RPAs. Due to this lack of specificity the EIS fails to disclose impacts to the public.
- EPA questions whether there was a sufficient record for NMFS and USFWS to make determinations under ESA.

Topic 2: How will programmatic benefits to resident and migratory fishes from CM2

and CM4 be estimated and compared to estimated negative effects of CM1, CM2, and CM4? EPA is still very much interested in this discussion and its direct relation to CM2.

Areas of Agreement:

- All the CM's need to be implemented to stay in "rough step" with impacts of covered activities
- EPA has role under NEPA to evaluate the EISs regarding both compliance with NEPA as an informational document as well as whether the proposed federal action will have unacceptable environmental impacts; and under the Clean Water Act to assess whether beneficial uses are adequately protected consistent with the SWRCB's WQCP
- The BDCP and BDCP EIR/S need to clearly outline the logic steps showing how CMs address covered species impacts related to CM1
- BDCP and EIR/S need to be clear that CMs can be modified if monitoring shows they are not as successful as anticipated in meeting the biological goals and objectives in the HCP.

Action Items:

- As identified in Technical Meetings 1-3, ICF is working on several action items that will improve the 'logic chain' between analyses and conclusions.

Topic 3: EPA concerned that BDCP and DEIR/EIS do not include adequate detail regarding export operations. In the south Delta, more detail is sought in regards to the Corps permit for SWP Banks operations and how BDCP use of that facility would meet Corps' goal of minimizing erosion. Additionally a description of CVP/SWP operations with and without each alternative should be included in Chapter 3 and add more detail to the north Delta bypass rules description. EPA also seeks clarification regarding E/I ratio used for BDCP.

Areas of Agreement:

- Documents should provide a good description of CVP/SWP Ops.

Action Items:

- ICF will review description of operations in documents and provide additional detail.
- DWR will provide a response to EPA regarding the USACE permit.
- DWR will have CH2 contact EPA to discuss application of E/I ratio in

BDCP modeling.

C. Review/Discussion of additional EPA comments

- EPA commented that they do not believe HCPs have generally worked and that they do not support many of the regional plans in California. In addition, they don't believe the BDCP will provide adequate protection of beneficial uses. .
- EPA expressed concern with actual implementation of HCP and whether it will protect beneficial uses.
- DWR commented that the BDCP will have an Implementation Office and Governance Structure that will facilitate implementation, and that the Adaptive Management Program will be in-place to address uncertainty of CMs.

D. Review/Discussion of prior meeting summaries

- DWR will revise meeting notes to incorporate USFWS comments on Technical meeting 3.
- Meeting notes and Action Items will be shared with Policy Group

III. Wrap-Up and Next Steps

- Policy Group to meet on January 15th
- DWR to share draft language (as described in Action Items) sometime around March, 2015